IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 6746 of 1996

Between:

The District Manager, A.P.State Civil Supplies Corporation, Hyderabad District, Civil Supplies Bhavan, Somajiguda, Hyderabad-500 482.

..... PETITIONER

AND

1 R.Narasimha, s/o R.Venkataswamy,
8-3-228/737, Rahamatnagar, Yousufguda, Hyderabad.
2 Addl. Industrial Tribunal-cum-Addl.Labour Court,
Hyderabad.
3 V Metropolitan Magistrate,
Red Hills, Hyderabad.
4 Deputy Commissioner of Labour,
Hyderabad (Twin Cities)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of mandamus declaring the order passed by the 2nd respondent-Addl. Industrial Tribunal-cum-Addl. Labour Court, Hyderabad, in M.P.No.33/92, dated 18-7-1994 and the consequential proceedings of the V Metropolitan Magistrate, Hyderabad in Dis.No.2752/V MM/95, dated 10-11-1995 as illegal, arbitrary without jurisdiction and violative of Article 14 of the Constitution of India and Sec.33-C(ii) of the Industrial Disputes Act.

Counsel for the Petitioner: MR.V.T.M.PRASAD

Counsel for the Respondent No.1: MR.SHAIK ANWAR PASHA

Counsel for the Respondent Nos.2 to 4: None appeared.

The Court made the following :

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ORDER:

The petitioner, which is a A.P. State Civil Supplies Corporation, filed this Writ Petition, inter alia, seeking to assail the orders passed by the 2nd respondent herein in M.P.No.33 of 1992 dated 18-07-1994 allowing an application filed under Section 33-C(2) of the Industrial Disputes Act, 1947 in part, at the instance of the 1st respondent herein claiming certain allowances.

The facts which are necessary for disposal of the writ petition are that the respondent No.1, who has been working with the petitioner-corporation as a messenger, was suspended in terms of the proceedings dated 19-05-1983 having regard to his involvement in a criminal case. However, as against the said criminal proceedings, the appeal filed by him was allowed on 24-10-1986. Thereafter, the respondent No.1 was reinstated into service on 16-06-1987. According to the respondent No.1 herein, in the application filed under Section 33-C(2) of the Industrial Disputes Act, 1947, having regard to the fact that the petitioner was exonerated of the charges and subsequently he was reinstated, during the period of 03-03-1984 and 16-06-1987 he is entitled to the amounts as claimed therein. The said application was, inter alia, contested by the petitioner herein on the ground that having regard to the decision taken by the Corporation on 10-10-1988 treating the period of absence as regularized with half pay, the respondent No.1 is not entitled to amount as claimed and therefore the award is wholly unsustainable.

The learned Counsel appearing for the petitioner submits that in view of the decision taken on 10-10-1998, which has been filed before the authority itself and which has been marked as Ex.W.5, the same has not been given credence, therefore allowing the petition though in part at the instance of the respondent No.1 herein is neither valid nor is in terms of the principles as laid down by the Apex Court in MANAGEMENT OF RESERVE BANK OF INDIA v. BHOPAL SINGH PANCHAL.

Considering the submissions made and on perusal of the material it is seen that there is no dispute to the fact that the petitioner-corporation has taken a decision in

regard to the aforesaid period, for which the claim is laid.

In the aforesaid decision relied on by the petitioner, the Apex Court while considering an application filed under Section 33-C(2) of the Industrial Dispute Act, 1947, has held that these are the aspects, which cannot be considered by the authority or the Labour Court as such and it is for the management which has to take a decision and therefore no relief as such can be granted thereunder. Having regard to the fact admittedly the petitioner-corporation, which is a management, has taken a decision regularizing the said period granting such amount and especially no independent enquiry has been taken, the same is equally binding to the respondent No.1 and therefore the orders allowing the claim though in part with a direction to pay subsistence allowances is not sustainable.

The Writ Petition is, accordingly allowed. The impugned orders are set aside. No costs.

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B.PRAKASH RAO, J.

Dated 30-11-2004.

Skmr

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Tuesday, the Thirtieth Day of November Two Thousand and Four.

..... REGISTRAR

To

1 Addl. Industrial Tribunal-cum-Addl.Labour Court,

Hyderabad.

2 The V Metropolitan Magistrate,
Red Hills, Hyderabad.

3 The Deputy Commissioner of Labour,
Hyderabad (Twin Cities)

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